

MICHIGAN TRANSPORTATION FUND – ACT 51 FREQUENTLY ASKED QUESTIONS

1. On the Street Financial Report (SFR), page 3, line 22 -- Administration, Engineering and Record Keeping -- Why is there a 10 percent limit? How is the 10 percent calculated? What happens if I go over the 10 percent?

- P.A. 51 of 1951, as amended, MCL Section 247.663, also known as Section 13(7) states:

“Not more than 10% per year of all of the funds returned to a city or village from any source for the purposes of this section may be expended for administrative expenses. As used in this subsection, “administrative expenses” means those expenses that are not assigned including, but not limited to, specific road construction or maintenance projects and are often referred to as general or supportive services. Administrative expenses shall not include net equipment expense, net capital outlay, debt service principal and interest, and payments to other state or local offices that are assigned, but not limited to, specific road construction projects or maintenance activities. A city or village which in a year expends more than 10% for administrative expenses shall be subject to section 14(5).”

- MCL 247.664, also known as Section 14(5) states:

“All distributions and returns of funds provided for in this act shall be withheld from the state transportation department, eligible authorities, county road commissions, cities, villages, or other eligible governmental agencies for failure to comply with any of the requirements of this act, and the withholding shall continue for the period of noncompliance.”

How is the 10 percent calculated?

The Department of Treasury, Local Audit Division, has made the determination that the basis for the calculation is 10 percent of the sum of lines 1, 2, and 6 on page 3 of the SFR. No other local funds can be used to increase the base amount.

What happens if I go over the 10 percent limit?

Administration, engineering, and record keeping expenses are those incurred to benefit the agency as a whole. They are not readily assignable to a specific activity and are otherwise indirect in nature. See page 11 of the Act 51 SFR long form (Form 2030) instruction booklet for definitions and examples.

Review the expenses posting to administration, engineering and record keeping, determining the expenses that can be properly charged as direct costs

to a street fund project. If so, you can restate the expenses on lines 16–21 and 23–31, on page 3 of the SFR.

Determine if you have excess general fund contributions. General fund transfers (or transfers of funds from local revenue sources) in excess of those required to meet the local street construction matching requirements can be used to cover excess administrative expenses. Review your construction report to determine what is needed to match local construction. Transfers in excess of the required 50 percent match amount will offset expenses in excess of the 10 percent limit.

Transfer local revenue from current year to offset the over limit amount in the prior year. This will require a resolution from your city/village council. Mail or fax a copy of the resolution to the Michigan Department of Transportation (MDOT), Financial Operations Division, Financial Outreach Services, 425 W. Ottawa, P.O. Box 30050, Lansing, MI 48933, fax number (517) 335-0669. We will expect to see the prior year adjustment in your audited financial statements.

If a city/village is not in compliance with the 10 percent administration limit, future Michigan Transportation Fund (MTF) distributions will be withheld until corrective action is taken.

Tip: Review your current year budget for Administration. If your budget is within the 10 percent limit, most likely your actual expenses will be too.

2. Why are we limited in how much funding we transfer from our Major Street Fund to our Local Street Fund? How is the 25 percent limit calculated? Who do I ask for help if I don't have an asset management plan? What happens if we go over the 25 percent?

- P.A. 51, of 1951, as amended, Section 247.663, also known as section 13(6) states:

“Except as provided in subsection (12), money returned under this section to a city or village shall be expended on the major and local street systems of that city or village. However, the first priority shall be the major street system. Money returned for expenditure on the major street system shall be expended in the priority order provided in subsection (3) except that surplus funds may be transferred for preservation of the local street system. Major street funds transferred for use on the local street system shall not be used for construction but may be used for preservation as defined in section 10c. A city or village shall not transfer more than 25% of its annual major street funding for the local street system unless it has adopted and is following an asset management process for its major and local street systems and adopts a resolution with a copy to the department setting forth all of the following:

- (a) A list of the major streets in that city or village.
- (b) A statement that the city or village is adequately maintaining its major streets.
- (c) The dollar amount of the transfer.
- (d) The local streets to be funded with the transfer.
- (e) A statement that the city or village is following an asset management process for its major and local street systems."

Who do I ask for help if I don't have an asset management plan?

Richard J. Lilly is the Asset Management Council Coordinator for MDOT. Mr. Lilly can be reached at (517) 335-2606 or by email at lillyr@michigan.gov. The Asset Management Council has a website at www.michigan.gov/mdotamc. We recommend that a local agency developing an asset management plan download the "Asset Management Guide for Local Agencies" (under Resources – Guide for Local Roads) and then contact Mr. Lilly directly for guidance.

How is the 25 percent calculated?

The 25 percent transfer from Major Street Fund to Local Street Fund is calculated using the current years' MTF receipts on lines 1, 2, and 6 on page 3 of your SFR. Adding these together gives you the base for the calculation from which you take the 25 percent. This is the maximum currently allowed by law.

What happens if we go over the 25 percent?

If the city/village is not in compliance with Section 13(6), MDOT will withhold future MTF distributions until compliance is met.

3. What are non-motorized expenditures? How is the required amount calculated? What expenditures can I use to meet this requirement? How do I get help? What happens if I don't have any non-motorized expenditures, or the amount I have is not enough?

- Section 247.660(k) of P.A. 82 of 2006, which amends P.A. 51 of 1951, also known as Section 10(k) states the following:

"(1) Transportation purposes as provided in this act include provisions for facilities and services for nonmotorized transportation including bicycling.

(2) Of the funds allocated from the Michigan transportation fund to the state trunk line fund and to the counties, cities, and villages, a reasonable amount, but not less than 1% of those funds shall be expended for construction or improvement of nonmotorized transportation services and facilities.

(3) An improvement in a road, street, or highway which facilitates nonmotorized transportation by the paving of unpaved road shoulders, widening of lanes, the addition or improvement of a sidewalk in a city or village, or any other appropriate measure shall be considered to be a qualified nonmotorized facility for the purposes of this section.

(4) Units of government need not meet the provisions of this section annually, provided the requirements are met as an average over a reasonable period of years, beginning with 1978, not to exceed 10.

(5) The state transportation department or a county, city, or village receiving money from the Michigan transportation fund annually shall prepare and submit a 5-year program for the improvement of qualified nonmotorized facilities which when implemented would result in the expenditure of an amount equal to at least 1% of the amount distributed to the state transportation department or the county, city, or village, whichever is appropriate, from the Michigan transportation fund in the previous calendar year multiplied by 10, less the accumulated total expenditures by the state transportation department or the county, city, or village for qualified nonmotorized facilities in the immediately preceding 5 calendar years. A county, city, or village receiving money from the Michigan transportation fund shall consult with the state transportation development region where the county, city, or village is located in its preparation and submittal of the 5-year program under this subsection.

(6) Facilities for nonmotorized transportation may be established in conjunction with or separate from already existing highways, roads, and streets and shall be established when a highway, road, or street is being constructed, reconstructed, or relocated, unless:

(a) The cost of establishing the facilities would be disproportionate to the need or probable use.

(b) The establishment of the facilities would be contrary to public safety.

(c) Adequate facilities for nonmotorized transportation already exist in the area.

(d) Matching funds are not available through the department of natural resources or other state, local, or federal government sources.

(e) The previous expenditures and projected expenditures for nonmotorized transportation facilities for the fiscal year exceed 1% of that unit's share of the Michigan transportation fund, in which case additional expenditures shall be discretionary.

(7) The state transportation department may provide information and assistance to county road commissions, cities, and villages on the planning, design, and construction of nonmotorized transportation facilities and services."

How is the required amount calculated?

The amount used for the calculation is current year MTF receipts (on lines 1 and 2 on page 3 of your SFR) plus any interest (line 6 on page 3 of your SFR). Major Street Fund is added to Local Street Fund which is the base. You multiply the base by 1 percent and then multiply by 10. The 1 percent amount is what is required for the current year and the 10 year amount needs to be less than the Grand Total on the chart on the bottom of page 4 of your SFR. If you have enough expenditures in prior years, you won't have to identify any for the current year.

What expenditures can I use to meet this requirement?

There is a table in the instructions for the Act 51 SFR long form, (Form 2030), on page 9, which describes expenditures that can be used for Non-Road and Road Facilities.

How do I get help?

Josh DeBruyn is the Non-motorized Transportation Coordinator for MDOT. Mr. DeBruyn can help a local agency determine if prior year expenditures can be used to meet the non-motorized requirement. He can also help a local agency develop a plan as described in Section 10(k). He can be reached at (517) 335-2918 or by email at debruynj@michigan.gov.

What happens if I don't have any non-motorized expenditures, or if the Grand Total amount is not enough?

When a city/village is not in compliance with Section 10(k), the city/village will need to have their Council adopt a resolution identifying how they will come into compliance within the next three years. (***This is not the same as the five-year plan which identifies how you plan to make your community more pedestrian friendly in the future.***) The resolution must identify what projects will be done and the amount that needs to be spent to bring you into compliance for lack of spending in past years. Once compliance is met, MTF funds will be released.

4. Why do I have to record interest on line 6, on page 3 of the Act 51 SFR? What happens if I don't show interest separate from revenues? Who should I ask for help?

- Section 247.663, also known as Section 13(10) of P.A. 51 of 1951, as amended, states:

“Interest earned on funds returned to a city or a village for purposes provided in this section shall be credited to the appropriate street fund.”

What happens if I don't show interest separate from revenues?

The Financial Outreach Services Unit will contact you to discuss this. Future MTF distributions could be withheld if an amount should have been recorded.

Who should I ask for help?

You will need to contact your CPA to identify how much of the MTF Revenue recorded on lines 1 and 2 on page 3 of your SFR, is interest.

5. Can I use my Local Street Funds on alleys?

- P.A. 51 of 1951, as amended, does not address the issue of alleys. Past practice and MDOT policy decisions have led to the following interpretations:
 - In general, MTF should not be spent on alleys.
 - An alley is a public way which provides secondary access to abutting land. Alleys, unused streets and cemetery and minor park drives, are not included in the tabulation of street mileage for the purposes of distributing MTF funds. If the alley is not part of your mileage certification map filed with MDOT, it should not receive funding.
 - Where an alley is open and used by the public as a public way, MTF Local Street funds may be used for its maintenance. The alley should become part of your mileage as shown on your mileage certification map if improvements are made.